

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

In re:

MIDNIGHT MADNESS DISTILLING LLC,

Debtor.

CHAPTER 7

Case No. 21-11750-MDC

**BONNIE B. FINKEL, in her capacity as Chapter 7
Trustee for Midnight Madness Distilling LLC,**

Adv. No. 23-00047-MDC

Plaintiff,

JURY TRIAL DEMANDED

v.

**CASEY PARZYCH; SHAWN SHEEHAN; ANGUS
RITTENBURG; KELLY FESTA; ASHLEIGH
BALDWIN; MICHAEL BOYER; R.F. CULBERTSON;
GARY PARZYCH; RYAN USZENSKI; POLEBRIDGE,
LLC; GOOD DESIGN, INC.; AGTECH PA LLC;
AGTECH VI, LLC; XO ENERGY WORLDWIDE,
LLLP; XO EW, LLC; CAN MAN LLC; BEST BEV,
LLC; ETOH WORLDWIDE, LLC; CANVAS 340, LLC;
FINLAND LEASING CO., INC.; and EUGENE T.
PARZYCH, INC.,**

Defendants.

**APPLICATION OF MOVING DEFENDANTS FOR AN
ORDER SCHEDULING EXPEDITED HEARING PURSUANT TO LOCAL
BANKRUPTCY RULE 5070-1 ON MOVING DEFENDANTS' EMERGENCY
MOTION FOR AN ORDER STAYING PROCEEDINGS
AND/OR FOR OTHER RELATED RELIEF**

**TO: HONORABLE MAGDELINE D. COLEMAN,
CHIEF UNITED STATES BANKRUPTCY JUDGE:**

Plaintiff, Bonnie B. Finkel (the "Plaintiff"), is the Chapter 7 Trustee for the debtor,
Midnight Madness Distilling LLC f/k/a Theobald and Oppenheimer, LLC d/b/a Faber Distilling

(the “Debtor”). Plaintiff filed an adversary proceeding (the “Adversary Proceeding” and the “Complaint”) against Defendants on June 15, 2023. On September 5, 2023, moving defendants herein (the “Moving Defendants”) filed a Motion with the United States District Court for the Eastern District of Pennsylvania (the “District Court”) requesting that the District Court withdraw its reference with respect to the Complaint (the “Withdrawal Motion”). The Plaintiff has granted all defendants until September 15, 2023 to respond to the Complaint.

Moving Defendants are Casey Parzych; Shawn Sheehan; Angus Rittenburg; Kelly Festa; Ashleigh Baldwin; Michael Boyer; R.F. Culbertson; Polebridge, LLC; Good Design, Inc.; AgTech PA LLC; AgTech VI, LLC; XO Energy Worldwide, LLLP; XO EW, LLC; Best Bev, LLC; Etoh Worldwide, LLC; and Canvas 340, LLC.

Moving Defendants hereby respectfully submit an application (the “Application”), by and through their undersigned attorneys, for an order pursuant to Local Bankruptcy Rule 5070-1, scheduling an expedited hearing on their motion for an order to stay the subject “Adversary Proceeding” (the “Stay Motion”), until such time as the District Court determines the Withdrawal Motion. In Support thereof, the Moving Defendants respectfully represent as follows:

BACKGROUND

1. On June 21, 2021, the Debtor filed a voluntary petition for reorganization pursuant to Chapter 11 of Title 11 of the United States Code (the “Bankruptcy Code”). [Dkt No. 1].
2. On October 13, 2021, this Court entered an order (the “Conversion Order”) converting the Debtor’s Chapter 11 case to a case under Chapter 7 of the Bankruptcy Code. [Dkt. No. 191].
3. Thereafter, the Plaintiff was appointed trustee of the Debtor’s estate.

4. The Withdrawal Motion asserts, inter alia, that (1) the Adversary Proceeding is in its infancy and raises substantially more non-core issues than bankruptcy issues; (2) venue is appropriate in this District pursuant to 28 U.S.C. § 1409(a), since Plaintiff has demanded a jury trial before an Article III judge in connection with all claims asserted that are triable to a jury under the Constitution and applicable law; and (3) Plaintiff has not consented to entry of final judgment or adjudication by this Honorable Court.

5. Contemporaneously herewith, Moving Defendants have filed the Stay Motion, and are requesting an expedited hearing thereon for the reasons set forth herein.

THE RELIEF REQUESTED AND THE REASONS THEREFOR

6. Moving Defendants respectfully submit that expedited consideration of the Stay Motion is appropriate because there will be substantial prejudice to the Moving Defendants if they are forced to respond to the Complaint, by September 15, 2023, prior to a decision on the Withdrawal Motion. Judicial economy warrants a stay of the Adversary Proceeding pending the District Court determining which Court will litigate the matter. Moreover, there is no prejudice to Plaintiff as the case will proceed in District Court, should the Withdrawal Motion be granted, or here, but there is no immediate or compelling reason for it to proceed here until the District Court decides the Withdrawal Motion.

7. Accordingly, Moving Defendants request that this Court schedule a hearing on the Stay Motion on Thursday, September 7, 2023, or such other date and time on which the Court is available.

8. A proposed form of order has been submitted herewith for the Court's consideration.

CERTIFICATION REGARDING CONSULTATION

9. Pursuant to L.B.R. 5070(f)(1), the undersigned counsel for Moving Defendants have consulted with Steven Coren, counsel for Plaintiff regarding expedited consideration of the Motion.

10. Mr. Coren's colleague, Andrew Belli, has indicated that Plaintiff does not consent to the expedited consideration of the Motion.

11. Moving Defendants propose to serve any order entered by this Court, granting the Application, together with the Stay Motion, upon counsel to the Plaintiff, by email and overnight courier and upon parties in the bankruptcy case by the Court's CM/ECF, within one business day after the entry of such order.

Dated: September 5, 2023

/s/ Mariam Khoudari
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